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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/308,314	05/13/1999	JOACHIM BANDEMER	3446US	5993

7590

05/08/2003

MARTIN A FARBER  
866 UNITED NATIONS PLAZA  
SUITE 473  
NEW YORK, NY 10017

EXAMINER

GRAHAM, GARY K

ART UNIT

PAPER NUMBER

1744

DATE MAILED: 05/08/2003

25

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/308,314

Applicant(s)

BANDEMER ET AL.

Examiner

Gary K Graham

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 March 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-12 and 14-34 is/are pending in the application.
- 4a) Of the above claim(s) 4,7-12,18-24 and 34 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,3,5,6,14-17,26-28 and 30 is/are allowed.
- 6) ☒ Claim(s) 25,29 and 31-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION***Continued Examination Under 37 CFR 1.114*

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11 March 2003 has been entered.

*Election/Restrictions*

Newly submitted claim 34 is directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: Claim 34 is directed to a method of directing fluid on a shield of a vehicle while claims 1, 25, 31-33 and all claims dependent thereon are directed to a shield cleaning system. The shield cleaning system and the method of directing fluid are related as product and process of using. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the method as is claimed can be used with a materially different product, such as one that does not employ a motor.

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Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claim 34 is withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

*Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 33 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 33, line 6, use of "meas" has no clear meaning. It appears such should be ---means---.

*Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 25 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Molari '375 in view of Bray '904.

The patent to Molari discloses the invention substantially as is claimed, including washing arm (3) for movement over shield (L) at a distance therefrom. The washing arm has washing nozzles (6,7) therein for supplying fluid to said shield. Said nozzles appear to be sprayable during all movement of the washing arm. A fluid motor (2) drives said arm over the shield. Said fluid motor is driven by an electric pump (14). Thus, the arm is movable via an electric motor and a fluid motor.

The patent Molari discloses all of the above recited subject matter with the exception of the nozzles being "fluidic nozzles" which provide an oscillating spray pattern.

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The patent to Bray discloses a fluidic nozzle that produces an oscillating spray pattern to provide wide coverage on a windshield surface. The nozzle has a swirl chamber (26) with return ducts (24,25) to an inlet region (21) of said swirl chamber. Such an arrangement induces the oscillation of the emerging fluid in the same manner applicant's does.

It would have been obvious to one of skill in the art to provide the device of Molari with fluidic nozzles, as taught by Bray, to provide increased spray coverage as well as increased cleansing action. To provide such oscillation transverse to the direction of movement of the washing arm appears obvious such that the entire shield receives spray. Otherwise, the shield would only be partially cleaned. Use of fluidic nozzles is well known to increase spray coverage in the windshield cleaning art.

Claims 25 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eppler et al '464 in view of Molari '375 and Bray '904.

The patent to Eppler discloses the invention substantially as is claimed, including plastic washing arm (2) for movement up and over shield (15') at a distance therefrom. The washing arm has a washing nozzle (7) thereon for supplying fluid to said shield. Said nozzle appears to be "sprayable" on the shield during all movement of the washing arm. Nothing would prevent such. A drive motor (not shown but disclosed) drives said arm out and up over the shield. With respect to claim 13, note push rod (2b). With respect to claim 15, note cover (16) to close the opening (20) from which the arm extends. With respect to claim 16, the particular method in which the

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arm is produced does not affect the final product and is not of patentable significance in the product claim. With respect to claim 26, since the device of Epple is switched such that the arm is driven out of the rest position into the operating setting and back again, such is considered to meet the control device limitation.

The patent to Epple discloses all of the above recited subject matter with the exception of the motor being a fluidic motor to move the spray arm outward and the nozzles being "fluidic nozzles" which provide an oscillating spray pattern.

The patent to Molari discloses all of the above recited subject matter, including the use of a fluidic motor to provide motivation to the wiper arm. It is noted that fluidic motors and electric motors are art recognized alternative drive motors that may be readily substituted for one another.

The patent to Bray discloses all of the above recited subject matter.

It would have been obvious to one of skill in the art to employ a fluidic motor for the drive motor of Epple instead of an electric motor, as clearly suggested by Molari, as a mere alternative drive source. There is no criticality to using an electric drive motor in Epple. Clearly any drive motor, pneumatic, fluidic, electric, etc, could be used.

It also would have been obvious to one of skill in the art to provide the device of Epple with fluidic nozzles, as taught by Bray, to provide increased spray coverage as well as increased cleansing action. To provide such oscillation transverse to the direction of movement of the washing arm appears obvious such that the entire shield receives spray. Otherwise, the shield would only be partially cleaned. Use of fluidic nozzles is well known in the wiper cleaning art.

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Claims 31 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Epple et al '464 in view of Bray '904.

The patent to Epple discloses all of the above recited subject matter, including a washing arm (2a) coupled with a push rod (2b). Said push rod displaces the washing arm in a longitudinal direction of the push rod. The patent to Epple discloses the invention substantially as is claimed, with the exception of the nozzles being "fluidic nozzles" which provide an oscillating spray pattern.

The patent to Bray discloses all of the above recited subject matter.

It would have been obvious to one of skill in the art to provide the device of Epple with fluidic nozzles, as taught by Bray, to provide increased spray coverage as well as increased cleansing action. To provide such oscillation transverse to the direction of movement of the washing arm appears obvious such that the entire shield receives spray. Otherwise, the shield would only be partially cleaned. Use of fluidic nozzles is well known in the wiper cleaning art.

With respect to claims 31 and 32, clearly the fluid of Epple is "sprayable" or "arranged to spray" at any time so desired. Nothing would prevent such spraying.



*Response to Arguments*

Applicant's arguments filed 11 March 2003 have been fully considered but they are not persuasive. Applicant's main argument is that Epple does not disclose simultaneous spraying with longitudinal arm movement. Firstly, it is noted that claims 25, 31 and 32 only call for the washing fluid as being "sprayable" or "arranged to spray". Such only appears to set forth that the washer fluid could be sprayed. There appears nothing in Epple that would prohibit spraying from occurring. Therefore, fluid is capable of being sprayed at any time. What prevents fluid from being sprayed?

Applicant's argument against the rejection of Molari is noted but not persuasive. While Molari does pivot his washing arm, nothing in claims 25 and 33 prohibit the washing arm from functioning in such a manner. Claims 25 and 33 only call for the arm or carrier being movable.

Applicant's arguments that the art does not suggest using a fluidic nozzle with moving arms is noted, but not persuasive. Fluidic nozzles are known to provide increased spray pattern, as suggested by Bray. It appears reasonable to employ such nozzles in the spray devices of either Epple '464 or Molari '375 for just such a reason.

*Allowable Subject Matter*

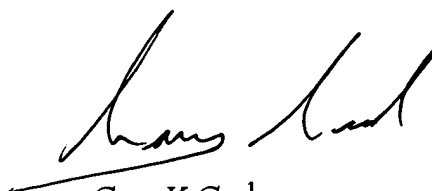
Claims 1, 3, 5, 6, 14-17, 26, 27, 28 and 30 are allowed.

*Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary K Graham whose telephone number is 703-308-1270. The examiner can normally be reached on Tuesday to Friday (6:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Warden can be reached on 703-308-2920. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



Gary K Graham  
Primary Examiner  
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